

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

FEDERAL INSURANCE COMPANY  
15 Mountain View Road  
Warren, NJ 07061,

Plaintiff,

v.

FSS AUTOMATIC SPRINKLER  
P.O. Box 3116  
Plymouth, MA 02361,

Defendant.

CIVIL ACTION NO.:

05-10308-WGY

MOTION FOR ADMISSION  
OF COUNSEL PRO HAC VICE

AMOUNT FEE PAID:

CEIPT #

AMOUNTS

ATTY CLK

6/13/07

NOW COMES Patrick J. Loftus, III, Esquire, Counsel for Plaintiff Federal Insurance Company respectfully moves this Court to enter an Order, in the form attached, for admission *Pro Hac Vice* of Mark E. Utke, Esquire of the law firm of Cozen O'Connor, to appear herein as counsel for Plaintiff.

In support of this motion, Movant states as follows:

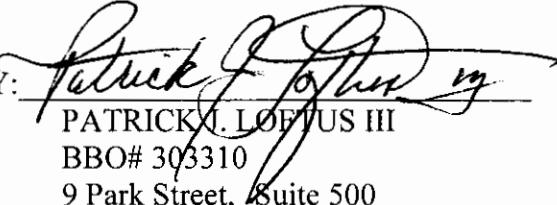
1. I am an attorney duly licensed to practice law in the Commonwealth of Massachusetts, and am attorney for plaintiff, in the above-captioned action.
2. The above-captioned action involves water damage sustained by The New Seabury Properties, LLC for its property located at Shore Drive West, Mashpee, Massachusetts.
3. The above-captioned action was commenced on or about February 14, 2005.

4. I have been acting as local counsel for Plaintiff, with respect to this matter; as local counsel for the plaintiff, I have cooperated with Mr. Utke, who have also prepared the case and are also ready to proceed with discovery and trial.

5. I know Mr. Utke to be a qualified attorney with significant experience in the area of fire and property damage litigation and to be a member in good standing of the Bar of the Commonwealth of Pennsylvania.

6. In further support of its motion, Movant incorporates, by reference, the annexed Affidavit of Mark E. Utke, Esquire [Exhibit "A"].

**WHEREFORE**, Movant respectfully requests that the Court grant on Order allowing the admission *Pro Hac Vice* of Mark E. Utke, Esquire, to practice with respect to the above-entitled action.

BY:   
PATRICK J. LOFTUS III  
BBO# 303310  
9 Park Street, Suite 500  
Boston, MA 02108  
617-723-7770

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

FEDERAL INSURANCE COMPANY 15 Mountain View Road Warren, NJ 07061,	: CIVIL ACTION NO. 05-10308 WGY
Plaintiff,	: JURY TRIAL DEMANDED
v.	: : :
FSS AUTOMATIC SPRINKLER P.O. Box 3116 Plymouth, MA 02361,	: : : :
Defendant.	: : :

**AFFIDAVIT OF PATRICK J. LOFTUS, III**

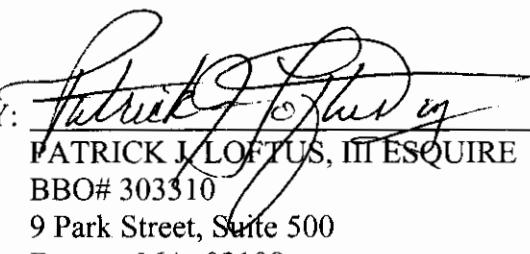
Patrick J. Loftus, III, Jr., Esquire, being duly sworn, deposes and says as follows:

1. I am an attorney duly licensed to practice law in the State of Massachusetts, and an attorney for the Plaintiff, Federal Insurance Company, in the above-entitled action.
2. I am fully familiar with the facts and circumstances as hereinafter set forth, and make this Affidavit in support of the Plaintiff's motion to have Mark E. Utke, Esquire admitted of counsel, *Pro Hac Vice*, with respect to the above-entitled action.
3. The affiant has been acting as local counsel with respect to this matter, and respectfully requests that the Court allow Mark E. Utke, Esquire to be admitted *Pro Hac Vice* for purposes of serving as counsel for Plaintiff,
4. The affiant has known Mr. Utke, Esquire to be an excellent attorney who has a great deal of experience with respect to the issues being presented in the present lawsuit and is a member in good standing of the Bar of the Commonwealth of Pennsylvania. Pennsylvania is a state which allows similar admission privileges to attorneys in good standing in Massachusetts.
5. The affiant respectfully submits to the Court that Mr. Utke is not only an excellent attorney, but is a person of unimpeachable character who would do justice to both his client and the Bar. The Court is respectfully referred to the attached Affidavit regarding Mr. Utke's qualifications with the respect to the subject claims.

6. The affiant respectfully requests that Mark E. Utke, Esquire be admitted *Pro Hac Vice* in the above-entitled action to serve as counsel with respect to the subject claims.

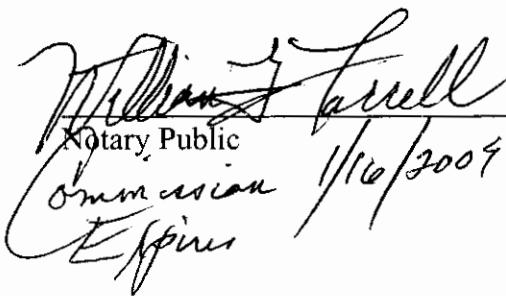
WHEREFORE, Patrick J. Loftus, III, Esquire respectfully requests that the Court grant an Order allowing the admission, *Pro Hac Vice*, of Mark E. Utke, Esquire to the United States District Court for the District of Massachusetts and to practice with respect to the above-captioned action, together with such other and further relief as the Court may deem just and proper.

BY:

  
PATRICK J. LOFTUS, III ESQUIRE  
BBO# 303310  
9 Park Street, Suite 500  
Boston, MA 02108  
(617) 723-7770  
ATTORNEY FOR PLAINTIFF

Sworn to before me on this

27<sup>th</sup> day of June, 2004.

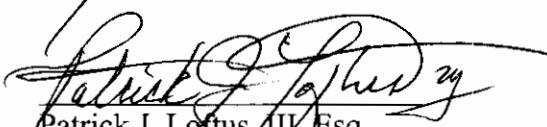
  
William J. Farrell  
Notary Public  
Commission 1/16/2004  
Expires 1/16/2009

**CERTIFICATE OF SERVICE**

I, Patrick J. Loftus, III, attorney for Federal Insurance Company, hereby certify that I served a true and correct copy of the foregoing MOTION TO ADMIT COUNSEL PRO HAC VICE, and AFFIDAVIT OF MARK E. UTKE IN SUPPORT OF MOTION FOR ADMISSION PRO HAC VICE by mail, postage prepaid to the following counsel/parties of record:

Harvey B. Heafitz  
Heafitz & Sullivan, LLP  
56 Chestnut Hill Avenue  
Boston, MA 02135  
Attorney for defendant.

Dated this 7<sup>th</sup> day of June 2005.

  
Patrick J. Loftus, III, Esq.  
BBO No. 303310  
9 Park Street, Suite 500  
Boston, MA 02108  
(617) 723-7770

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

FEDERAL INSURANCE COMPANY

15 Mountain View Road

Warren, NJ 07061,

CIVIL ACTION NO.

05-10308 WGY

Plaintiff,

AFFIDAVIT OF  
MARK E. UTKE

v.

FSS AUTOMATIC SPRINKLER

P.O. Box 3116

Plymouth, MA 02361,

Defendant.

I, MARK E. UTKE, ESQUIRE, being duly sworn, depose and say:

1. I am a resident of the State of New Jersey and am a practicing attorney in Philadelphia, Pennsylvania, and a Senior Member of the law firm of Cozen O'Connor, located at 1900 Market Street, Philadelphia, Pennsylvania.

2. I am duly licensed and admitted to practice law by the Commonwealth of Pennsylvania, having an Attorney Identification No. 70750. [A copy of my Certificate of Good Standing is annexed hereto].

3. I am a member in good standing of the Bar of the Commonwealth of Pennsylvania and the United States District Court for District of New Jersey. I am also admitted to practice before the Bar of the State of New Jersey, the United States District Court for the Western District of Michigan and the United States Court of Appeals for the Third Circuit.

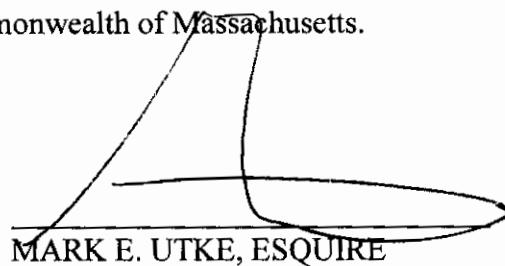
4. There are no disciplinary proceeding or criminal charges instituted against me in the Commonwealth of Pennsylvania or any other State.

5. An established attorney-client relationship exists between Plaintiff and myself and my clients have requested that I represent their interests in this matter.

6. The nature of this action involves complex legal and factual issues pertaining to property damage and fire litigation; I have handled these types of cases in the past and have developed an expertise in these matters.

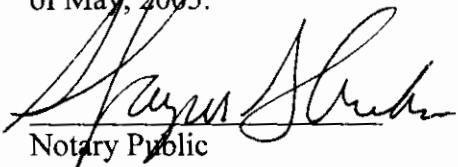
7. If the Court shall allow my Motion to Appear *Pro Hac Vice* in the above-captioned matter, I will continue to represent my clients in this proceeding until the final determination hereof and with reference to all matters, incidents, or proceedings, I agree that I shall be subject to the orders and amenable to disciplinary action and the civil jurisdiction of this Court and the Bar of the Commonwealth of Massachusetts in all respects, as if I were regularly admitted and a licensed member.

8. I am associated with Patrick J. Loftus, III, Esquire, an attorney who is duly and legally admitted to practice in the Commonwealth of Massachusetts.

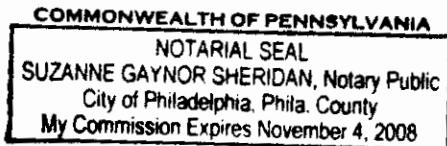


MARK E. UTKE, ESQUIRE

Sworn to and subscribed  
before me this 31 day  
of May, 2005.



Suzanne Gaynor Sheridan  
Notary Public





Supreme Court of Pennsylvania

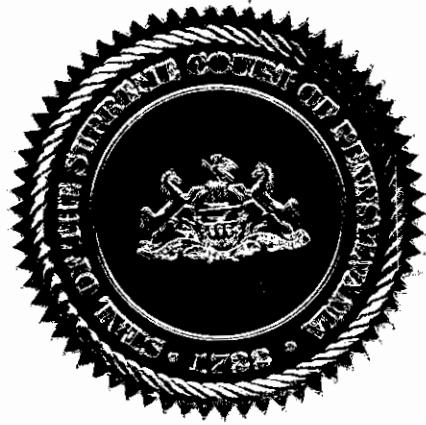
**CERTIFICATE OF GOOD STANDING**

***Mark Elliot Utke, Esq.***

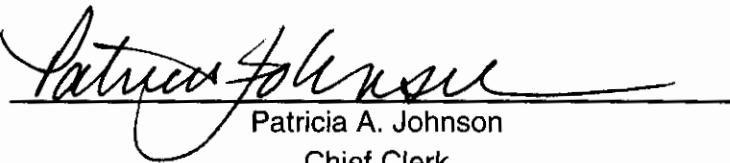
**DATE OF ADMISSION**

***December 13, 1993***

The above named attorney was duly admitted to the bar of the Commonwealth of Pennsylvania, and is now a qualified member in good standing.



Witness my hand and official seal  
Dated: May 19, 2005

  
\_\_\_\_\_  
Patricia A. Johnson  
Chief Clerk